FILED

Alberto Munoz Reg# 67821-380
Federal Correctional Institution
F.C.I. Herlong
P.O. Box 800
Herlong, CA 96113

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APR 10 2023

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

		2:23 0V000-EFB (HC)
ALBERTO MUNOZ	§	22-13444
PETITIONER,	S	CASE NO.
	S	
V.	S	MOTION PURSUANT TO U.S.C. § 2241
	S	SEEKING APPLICATION OF EARNED
WARDEN, F.C.I. HERLONG,	S	FEDERAL TIME CREDITS THROUGH THE
RESPONDENT.	S	FIRST STEP ACT (F.S.A.)
	S	
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inmate serving a sentence at F.C.I. Herlong in the State of
California. He moves this court to grant this writ, and ORDER the
Bureau of Prisons (BOP) to apply the earned FSA time credits that
he has earned through various programs, in accordance with the Act.

This Court, having familiarity with Motions of this nature, should read the filing, examine the attached supporting evidence, and swiftly order the BOP to apply the earned time credits.

I. ARGUMENT

Since the passage of the First Step Act, there has been serious deficiencies in the application of the 'earned time credits' to federal inmates, especially ones with possible imigration issues.

The BOP has waffled, and has changed the prgrom statement to allow all persons that do not have a "FINAL ORDER" of deportation to have earned credits applied, however, the BOP system is not making the sentence adjustments uniformly, and many people are having to

file writs in federal courts under 28 U.S.C. § 2241, seeking the credits to be ORDERED by courts. It is under this pressure, that the BOP seems responsive. Accordingly, this petitioner is asking for the same relief that is due.

Here, the petitioner has a PATTERN SCORE of <u>2 points</u>, and is further classified as a <u>Minimum</u> risk of recidivism. Due to these classifications, he is eligible to have the credits applied.

Thus far, this petitioner has earned 365 days towards early release, but his credits have not been applied thus far, and is asking this court to ORDER them to be properly applied according to the Act.

The petitioner has a tentative release date of: 02-05-2025.

This petitioner is not subject to any final order of deportation,
and so until that is established by an Immigration Court, his eligibility
to earn and have applied, FSA time credits is a liberty interest that
must be applied universally to all persons.

The BOP's current Program Statement that details the implementation of the First Step Act of 2018 clearly shows the language stricken that was used previously to bar persons with 'possible' deportation issues, or warrants, or detainers, or pending charges. Because none of these situations effect the actual release of an inmate, because these is no RCC/HC placement for these people, the effects of earning good time or earned FSA times are uneffected by possible, or pending immigration issues. As such, these credits must be applied.

Attached is EXHIBIT "A", FSA TIME CREDIT ASSESSMENT, showing how many credits this petitioner has earned. Attached is EXHIBIT "B",

PROGRAM REVIEW SHEET, showing the RISK to RE-OFFEND level and the current release date without the credits.

These exhibits demonstrate that this petitioner has earned the credits, is eligible to receive them, and has a score that commensurates with thee application of the Act.

II. RELIEF REQUESTED

For all of the above mentioned reasons, this petitioner respectfully requests that this Court GRANT the writ, and further ORDER the BOP to apply the earned credits in accordance with the First Step Act, and to further calculate the release date to reflect the proper application of these earned time credits.

Dated	this	3rd	day	of	April	, 2	0 23	
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Respectfully submitted,

Alberto Moñoz

ALBERTO MUNOZ

Pro Se

EXHIBIT "B"

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Individualized Needs Plan - Program Review (Inmate Copy) Dept. of Justice / Federal Bureau of Prisons

SEQUENCE: 02035864 Team Date: 11-06-2022

Plan is for inmate: MUNOZ, ALBERTO 67821-380

HER HERLONG FCI Facility:

Name: MUNOZ, ALBERTO

Register No.: 67821-380

Age:

Date of Birth: 04-02-1986 Proj. Rel. Date: 02-05-2025

Proj. Rel. Mthd: GOOD CONDUCT TIME

DNA Status: BAS05124 / 01-06-2017

Detainers

Detaining Agency

ICE

ALIEN EITHER LACKS IMMIGRATION STATUS OR STATUS IS REMOVABLE UNDER U.S. IMMIGRATION LAW.

A208 554 534

Remarks

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Facl	Assignment	Description	Start	
HER	ORD-TC-AM	ORDERLY-TAHOE C AM	07-08-2022	
Curren	t Education Inf	ormation		
Facl	Assignment	Description	Start	
HER	ESL EXEMPT	ESL NEED-PERMANENTLY EXEMPT	01-20-2017	
HER	GED EARNED	GED EARNED IN BOP	02-06-2019	
Educat	ion Courses			
The same Aller of	cl Action	Description	Start	Stop
HER		DIST LA1	10-17-2022	CURRENT
HER		DIST THINK	10-10-2022	CURRENT
HER		ACE BUSINESS ETIQUETTE	10-12-2022	CURRENT
HER		ACE JOB INTERVIEWING (RPP 2)	10-07-2022	CURRENT
HER	С	DIST WRIT2	09-16-2022	09-20-2022
HER	C	RESUME WRITING 101 (RPP 2)	09-13-2022	09-20-2022
HER	C	· · ·		
		ACE NUTRITION & MEALS (RPP 1)	09-01-2022	09-01-2022
HER	C .	DIST SCI1	09-26-2022	09-30-2022
HER	C	DIST SCI2	09-27-2022	10-01-2022
HER	С	ACE BUSINESS ETIQUETTE	06-09-2022	06-09-2022
HER	С	DIST WRIT1	05-30-2022	06-03-2022
HER	C	DIST SS3	05-30-2022	06-03-2022
HER	С	DIST MATH1	06-13-2022	06-17-2022
HER	С	DIST SS1	06-06-2022	06-10-2022
HER	С	DISTANCE INFO	05-02-2022	05-09-2022
HER	С	DIST LA2	05-03-2022	05-10-2022
HER	С	DIST LA1	05-02-2022	05-09-2022
HER	C	ACE INTRO TO BUDGETING (RPP 3)	12-01-2021	12-01-2021
HER	С	ACE JOB INTERVIEWING (RPP 2)	12-06-2021	12-06-2021
HER	С	ACE MANNERS FOR MEN (RPP 6)	11-22-2021	11-22-2021
HER	С	ACE DRESS FOR SUCCESS (RPP 6)	11-15-2021	11-15-2021
HER	C	CREDIT EVAL AND REPAIR (RPP 3)	11-08-2021	11-08-2021
REE	C	ESL LEVEL 2 PM MINI COURSE	02-12-2021	03-12-2021
REE	С	ESL LEVEL 1 MINI COURSE	01-11-2021	02-08-2021
DRJ	W	ESLPM5 1400 M-F P102	04-01-2019	08-29-2019
DRJ	С	CULINARY ARTS M-F 0800	11-26-2018	02-28-2019
DRJ	C	OPERATE CALCULATOR FRI900-1030	01-17-2019	02-22-2019
DRJ	C	GEDSPA PREP 1030-1200 M-F P105	10-17-2018	02-06-2019
DRJ	С	NON-RESIDENTAL M&TH 1300-1500	11-26-2018	01-17-2019
DRJ	С	COMPLETED INEA		
DRJ	С	DRUG EDUCATION 6 1300-1430 WED		
DRJ	С	A&O PREA COMP.EDU.CLASS TU 10A	04-24-2018	04-24-2018
Discipl	line History (La			
DRJ DRJ DRJ	C C C line History (La	COMPLETED INEA DRUG EDUCATION 6 1300-1430 WED A&O PREA COMP.EDU.CLASS TU 10A	11-30-2018 07-13-2018	12-10-2018 09-19-2018

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Individualized Needs Plan - Program Review

(Inmate Copy)

SEQUENCE: 02035864

Dept. of Justice / Federal Bureau of Prisons Plan is for inmate: MUNOZ, ALBERTO 67821-380

Team Date: 11-06-2022

Hearing Date	Prohibited Acts	
** NO INCIDENT REPO	ORTS FOUND IN LAST 6 MONTHS **	
Current Care Ass	ignments	

Description	Start	
HEALTHY OR SIMPLE CHRONIC CARE	01-04-2017	
CARE1-MENTAL HEALTH	01-17-2017	
	HEALTHY OR SIMPLE CHRONIC CARE CARE1-MENTAL HEALTH	HEALTHY OR SIMPLE CHRONIC CARE 01-04-2017

Current Medical Duty Status Assignments

Assignment	Description	Start
C19-T NEG	COVID-19 TEST-RESULTS NEGATIVE	05-15-2021
REG DUTY	NO MEDICAL RESTRREGULAR DUTY	03-24-2020
YES F/S	CLEARED FOR FOOD SERVICE	07-22-2021

Current Drug Assignments

Assignment	Description	Start	
DAP NO INT	DRUG ABUSE PROGRAM NO INTEREST	05-05-2021	
ED COMP	DRUG EDUCATION COMPLETE	09-18-2020	

FRP Payment Plan

Most Recent Payment Plan

EDD Aggiggment	COMPLT	EINANC DEED COMPLETED	Start: 09-18-2020
FRP Assignment:	COMPLT	FINANC RESP-COMPLETED	Start: 09-10-2020
9			4 4411 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4 4

Frequency: SINGLE Inmate Decision: **AGREED** \$25.00 Obligation Balance: \$0.00 Payments past 6 months: \$0.00

Financial Obligations No. Type Amount Balance Payable Status COMPLETEDZ ASSMT \$100.00 \$0.00 IMMEDIATE

FRP Deposits

Trust Fund Deposits - Past 6 months: \$1,907.00 Payments commensurate?

New Payment Plan: ** No data **

Current FSA Assignments

05-05-2022 09-15-2021
08-05-2022
08-08-2022
05-25-2021
11-10-2021
05-27-2021
08-08-2022
04-23-2021
05-25-2021
05-25-2021
05-12-2021
11-04-2022

Progress since last review

Inmate arrived at FCI Herlong on 04-29-2021. He has his GED and has completed other educational programs. He has maintained clear conduct since last team and has completed his financial obligations.

Next Program Review Goals

Enroll in the ACT Work Keys class through Education by next team.

To resolve any missing or "Refuse" FSA assessments, complete any available FSA Needs Assessment questionnaires on Trulincs under "Surveys". If there are not any available assessments, please contact the appropriate department (Psychology, etc) for a paper survey instead.

Long Term Goals

^{**} NO ADJUSTMENTS MADE IN LAST 6 MONTHS **

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Individualized Needs Plan - Program Review (Inmate Copy)

Dept. of Justice / Federal Bureau of Prisons

Plan is for inmate: MUNOZ, ALBERTO 67821-380

SEQUENCE: 02035864

Team Date: 11-06-2022

Complete the Money Smart for Adults class through your Counselor by 11-2023.

Complete the Health and Wellness Throughout the Lifespan class through Recreation by 11-2023.

Complete the Brain Health as you Age class through Recreation by 11-2023.

Complete the Talking with Your Doctor class through Recreation by 11-2023.

Complete the Getting To Know Your Healthy Aging Body class through Recreation by 11-2023.

Complete the Healthy Steps for Older Adults class through Recreation by 11-2023.

Complete the Arthritis Foundation Walk with Ease class through Recreation by 11-2023.

Enroll in the Vocational Trades Carpentry class or another VT class of your choice by 11-2023.

If any of these recommended classes are currently unavailable, it is recommended to enroll in any other available classes to meet your First Step Act assessed needs.

RRC/HC Placement

Criminal alien releasing to custody of ICE.

Consideration has been given for Five Factor Review (Second Chance Act):

- Facility Resources
- Offense
- Prisoner
- Court Statement
- Sentencing Commission

Comments

Treaty Transfer: Eligible and not interested.

Inmate individually assessed for extended RRC placement using the 2nd Chance Act criteria, he is not appropriate for placement, due to a detainer or pending charge/warrants. Inmate individually assessed for direct home detention and found not appropriate at this time, due to security and custody concerns.

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INMATE EDUCATION DATA TRANSCRIPT

10-24-2022 13:04:34

REGISTER NO. 6/821-380 FORMAT.... TRANSCRIPT

HEROX PAGE 001

NAME..: MUNOZ

RSP OF: HER-HERLONG FCI

FUNC: PRT

CASAS LIST PLACE 225.0 05-18-2018 DRJ 1 READ PLACE 192.0 05-18-2018 DRJ 1 GED AVERAGE 588.0 02-06-2019 DRJ PASS 6 LIT/ARTS 146.0 01-10-2019 DRJ GLASP	FACI	ASST	CNMENT		TDTTON			FORMATION START	DATE	TIME O	STOP	DAT	E/T	IME
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GED AVERAGE 588.0 02-06-2019 DRJ PASS CLASP GLASP			RE	AD PLA	CE	192.0	05-	18-2018	DRJ		1			
LIT/ARTS 146.0 01-10-2019 DRJ GLASP	GED		AV	ERAGE		588.0	02-	06-2019			PAS	S		GA
MATH 148.0 02-06-2019 DRJ GMASP			LI	T/ARTS			01-	10-2019	DRJ		GLA	SP		GA
			MA	TH		148.0	02-	06-2019	DRJ		GMA	SP		GA
G0002 MORE PAGES TO FOLLOW	G0002	>	MOE	E PACE	S TO F	OLLOW								

"EXHIBIT A"

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FSA Time Credit Assessment

Register Number: 67821-380, Last Name: MUNOZ

Register Nur	mber67	7821-380			Responsible Facility:	urd
Inmate Name		300			Assessment Date	
	MT	INOZ				: 12-21-2018 to 02-11-202
	AI				Accrued Pgm Days	
Middle					Disallowed Pgm Days.:	
Suffix					FTC Towards RRC/HC	
Gender		AT.E			FTC Towards Release.:	
Start Incard					Apply FTC to Release:	working.
	ceración. 12	. 03-2010			Appry Fic to Release.	140
Start	Stop	Pgm Status	Pgm Da	ays		
12-21-2018	02-11-2023	accrue	1499			
Cannot app	oly FTC					
Detainer	: Yes					
Start	Stop	Pgm Status	Pgm Da	ays		
12-21-2018	08-20-2020	accrue	608	7 *	Service State of the Control of the	
Accrued Pg	m Days:	608	•			
5 4						The second secon
Carry Over	Pgm Days:	0				
	t Factor.:		•			
Time Credi	1.47	10				
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Time Credi	t Factor.: ts:	10 200 Pgm Status	Pgm Da			
Time Credi Time Credi Start 08-20-2020 In SHU	stop 09-03-2020	10 200 Pgm Status	Pgm Da	ays		
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FSA Time Credit Assessment

Register Number: 67821-380, Last Name: MUNOZ

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

#	Start	Stop	Status	Risk Assignment	Risk Asn Start	Factor
001	12-21-2018	06-19-2019	PRESUMPTIVE	FSA R-LW	04-28-2021 1706	10
002	06-19-2019	12-16-2019	PRESUMPTIVE	FSA R-LW	04-28-2021 1706	10
003	12-16-2019	06-13-2020	PRESUMPTIVE	FSA R-LW	04-28-2021 1706	10
004	06-13-2020	12-10-2020	PRESUMPTIVE	FSA R-LW	04-28-2021 1706	10
005	12-10-2020	06-08-2021	ACTUAL	FSA R-LW	04-28-2021 1706	10
006	06-08-2021	12-05-2021	ACTUAL	FSA R-LW	04-28-2021 1706	10
007	12-05-2021	06-03-2022	ACTUAL	FSA R-LW	11-13-2021 1651	15
008	06-03-2022	11-30-2022	ACTUAL	FSA R-MIN	05-11-2022 2011	15
009	11-30-2022	05-29-2023	ACTUAL	FSA R-MIN	11-04-2022 1258	15

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FSA Recidivism Risk Assessment (PATTERN 01.03.00)

Register Number: 67821-380, Last Name: MUNOZ

U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS Register Number: 67821-380 Risk Level Inmate.... R-MIN Inmate Name General Level..... R-MIN (2) Last..... MUNOZ Violent Level..... R-MIN (4) First..... ALBERTO Security Level Inmate: LOW Middle....: Security Level Facl..: MEDIUM Suffix....: Responsible Facility.: HER Gender.... MALE Start Incarceration..: 12/09/2016 PATTERN Worksheet Summary - Value - General Score - Violent Score Current Age 36 21 12 Walsh w/Conviction FALSE . 0 0 Violent Offense (PATTERN) FALSE 0 Criminal History Points 0 0 History of Escapes 0 0 History of Violence Education Score HighSchoolDegreeOrGED -2 Drug Program Status NoNeed -6 -3 All Incident Reports (120 Months) 1 1 Serious Incident Reports (120 Months) 1 1 Time Since Last Incident Report 39 0 Time Since Last Serious Incident Report 0 FRP Refuse FALSE 0 Programs Completed 21 -12 Work Programs 1 -1 - 7

Total 2

Assessment Date: 11/04/2022